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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/758,914

01/16/2004

George Joseph Oswald

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07/22/2008

HOLLAND & HART LLP

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EXAMINER

HU, KANG

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

07/22/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/758,914	<b>Applicant(s)</b> OSWALD, GEORGE JOSEPH	
	<b>Examiner</b> KANG HU	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-7,9-20,22-32 and 34-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-7,9-20,22-32 and 34-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Final rejection dated 5/13/2008 are hereby vacated. The current office action is in response to the amendment filed on 2/14/2008. Claims 2, 3, 8, 21, 33 have been cancelled, claims 1, 4-7, 9-20, 22-32, 34-42 are currently pending in the application.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4-7, 9-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masaya et al. (US 2005/0009611 A1) as previously indicated in office action dated 10/17/2007 in view of Lawrence (US 4,639,007) in view of examiner's official notice.

Re claims 1, 4-7, 9-20 and 22, as previously indicated Masaya et al. disclose the claimed features, a video game cockpit, comprising: a support apparatus, the support apparatus comprising: a framework of interconnected members configured to collapse from a non-collapsed position into a collapsed position, the collapsed position having a vertical height of no more than twelve inches; It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the framework collapsible into a portable unit, since it has been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. In re Lindberg, 93 USPQ 23 (CCPA 1952). An adjustable pedal mount attached to the framework of interconnected members as set

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forth in the previous office action, with the exception of the newly added features of the adjustable pedal mount comprising at least two degrees of freedom, wherein the adjustable pedal mount is adjustable forward and backward and rotational about an axis; Masaya does not explicitly state how the pedal mounts and the adjustable controller mount and etc. can be adjusted. However as can be seen in the picture, the pedal mount can be adjusted forward and backward as it slides on the tube. The ability to adjust the foot pedal to be adjustable to different degrees of freedom would be easily accomplished. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make such minor adjustments, by adding panels and platforms on to the frame of the simulated cockpit and adjusting it to the likeness of the player since it has been held that the provision of adjustability, where needed, involves only routine skill in the art. In re Stevens, 101 USPQ 284 (CCPA 1954). Lawrence teaches of an adjustable pedal mount able to slide forward and backward and rotational about an axis in fig 2, as the pedal is wrapped around the member holding the adjustable pedal mount and can rotate around the member in any direction to make it convenient and comfortable for the player. It would have been obvious to use such simple techniques to adjust pedal mounts, controller mount, console mount, keyboard mounting arms and etc. Re claims 4-7 and 9-17, it would have been obvious to add additional panels, platforms on the frame to accommodate different features as needed as it only involves routine skill in the art to accomplish. Re claims 18-20 and 22 have the same limitations as discussed above and will not be repeated herein.

4. Claims 23-32 and 34-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masaya et al. (US 2005/0009611 A1) in view of Brasseal et al. (US 2004/0129489 A1). Masaya

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et al. disclose the claimed features, as set forth in the previous office action and as discussed above, with the exception of the specific structural construction. Such body structure is enclosed by Brasseal in the invention of a sand rail vehicle, where such construction is built to protect the passenger from harm and at the same time can be used to mount different accessories to provide a more realistic simulation experience for the player. It would have been obvious to one having ordinary skill in the art at the time the invention was made to duplicate such design and form, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

### ***Response to Arguments***

5. Examiner indicated in the interview summary that claim 23 appears to be allowable, after further consideration given the broadest interpretation of the claim it is rejected. The structure provided in claim 23 is of the same structure as it appears in Brasseal beside the structure limitation where applicant's structure can collapse into height of no more than 12 inches. As previously indicated in the office action, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to duplicate such design and form and construct a collapsible structure such as the commonly known collapsible chairs and tables to save space. Furthermore, it would also have been obvious that the structure of the sand rail vehicle is constructed out of tubes and other materials and put in place by soldering, such structure before it was soldered, or if broken down (collapse) it would also have a vertical height of no more than twelve inches.

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Applicant's arguments filed 2/14/2008 have been considered but they are not persuasive.

Re applicant's argument of the limitations added to the independent claims, inter alia, "adjustable pedal mount comprising at least two degrees of freedom, wherein the adjustable pedal mount is adjustable forward and backward and rotational about an axis" as recited above, Lawrence teaches of such a pedal mount where it is adjustable forward and backward and rotational about an axis as the foot pedal wraps around the cylindrical member. Furthermore, also as indicated above, it would have only involve routine skill in the art to add additional members to hold each and every features the player wishes to add onto the simulated vehicle, making them adjustable by rotating about an axis, or slide up/down, front/back on the structure.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Karschitz (US 1,367,908) teaches of a collapsible table and chair.

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KANG HU whose telephone number is (571)270-1344. The examiner can normally be reached on 8-5 (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/  
Supervisory Patent Examiner, Art Unit 3714

/Kang Hu/  
Examiner, Art Unit 3714